

§ 984.302 Administrative fees.

(a) *Public housing FSS program.* The performance funding system (PFS), provided under section 9(a) of the 1937 Act, shall provide for the inclusion of reasonable and eligible administrative costs incurred by PHAs in carrying out the public housing FSS programs. These costs are subject to appropriations by the Congress. However, a PHA may use other resources for this purpose.

(b) *Section 8 FSS program.* The administrative fees paid to PHAs for HUD-approved costs associated with operation of an FSS program are established by the Congress and subject to appropriations.

[61 FR 8815, Mar. 5, 1996, as amended at 65 FR 16733, Mar. 29, 2000]

§ 984.303 Contract of participation.

(a) *General.* Each family that is selected to participate in an FSS program must enter into a contract of participation with the PHA that operates the FSS program in which the family will participate. The contract of participation shall be signed by the head of the FSS family.

(b) *Form and content of contract—(1) General.* The contract of participation, which incorporates the individual training and services plan(s), shall be in the form prescribed by HUD, and shall set forth the principal terms and conditions governing participation in the FSS program, including the rights and responsibilities of the FSS family and of the PHA, the services to be provided to, and the activities to be completed by, the head of the FSS family and each adult member of the family who elects to participate in the program.

(2) *Interim goals.* The individual training and services plan, incorporated in the contract of participation, shall establish specific interim and final goals by which the PHA, and the family, may measure the family's progress toward fulfilling its obligations under the contract of participation, and becoming self-sufficient. For each participating FSS family that is a recipient of welfare assistance, the PHA must establish as an interim goal that the family become independent from welfare as-

sistance and remain independent from welfare assistance at least one year before the expiration of the term of the contract of participation, including any extension thereof.

(3) *Compliance with lease terms.* The contract of participation shall provide that one of the obligations of the FSS family is to comply with the terms and conditions of the respective public housing lease or Section 8-assisted lease.

(4) *Employment obligation—(i) Head of family's obligation.* The head of the FSS family shall be required under the contract of participation to seek and maintain suitable employment during the term of the contract and any extension thereof. Although other members of the FSS family may seek and maintain employment during the term of the contract, only the head of the FSS family is required to seek and maintain suitable employment.

(ii) *Seek employment.* The obligation to seek employment means that the head of the FSS family has applied for employment, attended job interviews, and has otherwise followed through on employment opportunities.

(iii) *Determination of suitable employment.* A determination of suitable employment shall be made by the PHA based on the skills, education, and job training of the individual that has been designated the head of the FSS family, and based on the available job opportunities within the jurisdiction served by the PHA.

(5) *Consequences of noncompliance with the contract.* The contract of participation shall specify that if the FSS family fails to comply, without good cause, with the terms and conditions of the contract of participation, which includes compliance with the public housing lease or the Section 8-assisted lease, the PHA may:

- (i) Withhold the supportive services;
- (ii) Terminate the family's participation in the FSS program; or
- (iii) For the Section 8 FSS program, terminate or withhold the family's Section 8 assistance, except in the case where the only basis for noncompliance with the contract of participation is

noncompliance with the lease, or failure to become independent from welfare assistance. However, failure to become independent from welfare assistance because of failure of the head of household to meet the employment obligation described in paragraph (a)(4) of this section, or failure of the FSS family to meet any other obligation under the contract of participation, except the interim goal concerning welfare assistance, is grounds for the PHA to terminate or withhold Section 8 assistance.

(c) *Contract term.* The contract of participation shall provide that each FSS family will be required to fulfill those obligations to which the participating family has committed itself under the contract of participation no later than 5 years after the effective date of the contract.

(d) *Contract extension.* The PHA shall, in writing, extend the term of the contract of participation for a period not to exceed two years for any FSS family that requests, in writing, an extension of the contract, provided that the PHA finds that good cause exists for granting the extension. The family's written request for an extension must include a description of the need for the extension. As used in this paragraph (d), "good cause" means circumstances beyond the control of the FSS family, as determined by the PHA, such as a serious illness or involuntary loss of employment. Extension of the contract of participation will entitle the FSS family to continue to have amounts credited to the family's FSS account in accordance with § 984.304.

(e) *Unavailability of supportive services—(1) Good faith effort to replace unavailable services.* If a social service agency fails to deliver the supportive services pledged under an FSS family member's individual training and services plan, the PHA shall make a good faith effort to obtain these services from another agency.

(2) *Assessment of necessity of services.* If the PHA is unable to obtain the services from another agency, the PHA shall reassess the family member's needs, and determine whether other available services would achieve the same purpose. If other available services would not achieve the same pur-

pose, the PHA shall determine whether the unavailable services are integral to the FSS family's advancement or progress toward self-sufficiency. If the unavailable services are:

(i) Determined not to be integral to the FSS family's advancement toward self-sufficiency, the PHA shall revise the individual training and services plan to delete these services, and modify the contract of participation to remove any obligation on the part of the FSS family to accept the unavailable services, in accordance with paragraph (f) of this section; or

(ii) Determined to be integral to the FSS family's advancement toward self-sufficiency (which may be the case if the affected family member is the head of the FSS family), the PHA shall declare the contract of participation null and void. Nullification of the contract of participation on the basis of unavailability of supportive services shall not be grounds for termination of Section 8 assistance.

(f) *Modification.* The PHA and the FSS family may mutually agree to modify the contract of participation. The contract of participation may be modified in writing with respect to the individual training and services plans, the contract term in accordance with paragraph (d) of this section, and designation of the head of the family.

(g) *Completion of the contract.* The contract of participation is considered to be completed, and a family's participation in the FSS program is considered to be concluded when one of the following occurs:

(1) The FSS family has fulfilled all of its obligations under the contract of participation on or before the expiration of the contract term, including any extension thereof; or

(2) 30 percent of the monthly adjusted income of the FSS family equals or exceeds the published existing housing fair market rent for the size of the unit for which the FSS family qualifies based on the PHA's occupancy standards. The contract of participation will be considered completed and the family's participation in the FSS program concluded on this basis even though the contract term, including any extension thereof, has not expired, and

the family members who have individual training and services plans have not completed all the activities set forth in their plans.

(h) *Termination of the contract.* The contract of participation is automatically terminated if the family's Section 8 assistance is terminated in accordance with HUD requirements. The contract of participation may be terminated before the expiration of the contract term, and any extension thereof, by:

(1) Mutual consent of the parties;

(2) The failure of the FSS family to meet its obligations under the contract of participation without good cause, including in the Section 8 FSS program the failure to comply with the contract requirements because the family has moved outside the jurisdiction of the PHA;

(3) The family's withdrawal from the FSS program;

(4) Such other act as is deemed inconsistent with the purpose of the FSS program; or

(5) Operation of law.

(i) *Option to terminate Section 8 housing and supportive service assistance.* The PHA may terminate or withhold Section 8 housing assistance, the supportive services, and the FSS family's participation in the FSS program, if the PHA determines, in accordance with the hearing procedures provided in 24 CFR 982.555 that the FSS family has failed to comply without good cause with the requirements of the contract of participation as provided in paragraph (b)(5) of this section.

(j) *Transitional supportive service assistance.* a PHA may continue to offer to a former FSS family who has completed its contract of participation and whose head of family is employed, appropriate FSS supportive services in becoming self-sufficient (if the family still resides in public housing, or Section 8-assisted housing), or in remaining self-sufficient (if the family no longer resides in public, Section 8-assisted housing, or other assisted housing).

§ 984.304 Total tenant payment, family rent, and increases in family income.

(a)(1) *Public housing FSS program: Calculation of total tenant payment.* Total tenant payment for a family participating in the public housing FSS program is determined in accordance with the regulations set forth in 24 CFR part 913.

(2) *Section 8 FSS program: Calculation of family rent.* For the rental certificate program, total tenant payment for a family participating in the Section 8 FSS program and the amount of the housing assistance payment is determined in accordance with the regulations set forth in subpart F of 24 CFR part 5, and subpart K of 24 CFR part 982. For the rental voucher program, the housing assistance payment for a family participating in the FSS program is determined in accordance with the regulations set forth in 24 CFR § 982.505.

(b) *Increases in FSS family income.* Any increase in the earned income of an FSS family during its participation in an FSS program may not be considered as income or a resource for purposes of eligibility of the FSS family for other benefits, or amount of benefits payable to the FSS family, under any other program administered by HUD, unless the income of the FSS family equals or exceeds 80 percent of the median income of the area (as determined by HUD, with adjustments for smaller and larger families).

[61 FR 8815, Mar. 5, 1996, as amended at 64 FR 13057, Mar. 16, 1999]

§ 984.305 FSS account.

(a) *Establishment of FSS account—(1) General.* The PHA shall deposit the FSS account funds of all families participating in the PHA's FSS program into a single depository account. The PHA must deposit the FSS account funds in one or more of the HUD-approved investments.

(2) *Accounting for FSS account funds—(i) Accounting records.* The total of the combined FSS account funds will be supported in the PHA accounting records by a subsidiary ledger showing